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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92059289
Party	Defendant Damo Textile
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Date	07/14/2014
Attachments	Answer to Petition for Cancellation (00931961).PDF(230608 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

D.J. BRONSON, INC.,

Petitioner,

v.

DAMO TEXTILE, INC.

Registrant.

Cancellation No.: 92059289

Mark: MASQUERADE

Reg. No.: 3,427,380

Reg. Date.: May 13, 2008

ANSWER TO PETITION FOR CANCELLATION

Registrant Damo Textile, Inc. ("Registrant"), by and through its undersigned counsel, hereby responds to the Petition for Cancellation ("Petition") of petitioner D.J. Bronson, Inc. ("Petitioner").

As to the unnumbered preface paragraphs, Registrant responds:

Registrant lacks sufficient information and belief as to whether Petitioner is a corporation of the State of California, with an address of 5401 Telegraph Road, Commerce, CA 90040, and on that basis denies said allegations. Registrant admits that Petitioner believes it is being damaged by and will continue to be damaged by the continued registration of the registered MASQUERADE mark ("Registered Mark") shown in U.S. Trademark Registration No.: 3,427,380 ("380 Registration"), but Registrant denies that Petitioner's apparent belief is warranted or that Petitioner is actually being damaged or will be damaged by the continued registration of the Registered Mark. Registrant admits that it owns the 380 Registration.

Registrant admits that Petitioner seeks to cancel the 380 Registration pursuant to the Trademark Act, but denies that there exist any valid grounds for doing so.

As to the numbered subsequent paragraphs, Registrant responds:

1. Registrant denies the allegations of paragraph 1 of the Petition.
2. Registrant lacks sufficient information and belief as to the allegations in paragraph 2 of the Petition, and on that basis denies said allegations.
3. Registrant lacks sufficient information and belief as to the allegations in paragraph 3 of the Petition, and on that basis denies said allegations.
4. Registrant admits the allegations of paragraph 4 of the Petition.
5. Registrant denies the allegations of paragraph 5 of the Petition.
6. Registrant lacks sufficient information and belief as to the allegations in paragraph 6 of the Petition, and on that basis denies said allegations.
7. Registrant lacks sufficient information and belief as to the allegations in paragraph 7 of the Petition, and on that basis denies said allegations.
8. Registrant lacks sufficient information and belief as to the allegations in paragraph 8 of the Petition, and on that basis denies said allegations.
9. Registrant denies the allegations of paragraph 9 of the Petition.

10. Registrant denies the allegations of paragraph 10 of the Petition.

11. Registrant lacks sufficient information and belief as to the allegations in paragraph 11 of the Petition, and on that basis denies said allegations.

12. Registrant lacks sufficient information and belief as to the allegations in paragraph 12 of the Petition, and on that basis and out of abundance of caution denies said allegations.

13. Registrant denies that Petitioner will be damaged as alleged. The allegation of confusing similarity is a legal conclusion and, accordingly, a response is not required. Registrant lacks sufficient information and belief as to the balance of the allegations in paragraph 13 of the Petition, and on that basis denies said allegations.

14. Registrant denies the allegations of paragraph 14 of the Petition.

15. Registrant denies the allegations of paragraph 15 of the Petition.

16. Registrant denies the allegations of paragraph 16 of the Petition.

AFFIRMATIVE DEFENSES

1. The Petition fails to state a claim upon which relief may be granted.

2. The claim set forth in the Petition is barred by the doctrine of laches. Registrant and Petitioner are competitors in the garment industry. Petitioner has had constructive notice,

and on information and belief has had actual notice, of the existence of the Registered Mark for years, but has waited until now to file its Petition without justification.

3. The claim set forth in the Petition is barred by the doctrine of estoppel. Registrant and Petitioner are competitors in the garment industry. Petitioner has had constructive notice, and on information and belief has had actual notice, of the existence of the Registered Mark for years, but has waited until now to file its Petition without justification.

4. The claim set forth in the Petition is barred by the doctrine of acquiescence. Registrant and Petitioner are competitors in the garment industry. Petitioner has had constructive notice, and on information and belief has had actual notice, of the existence of the Registered Mark for years, but has waited until now to file its Petition without justification.

5. The claim set forth in the Petition is barred by the doctrine of unclean hands. Registrant and Petitioner are competitors in the garment industry. Petitioner has had constructive notice, and on information and belief has had actual notice, of the existence of the Registered Mark for years, but has waited until now to file its Petition without justification.

6. Petitioner lacks standing to pursue the Petition because it has not and will not be damaged by the continued registration of the Registered Mark. Petitioner's damage, if any, results from Petitioner's own actions and/or inactions.

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7. Registrant reserves the right to assert additional affirmative defenses.

WHEREFORE, Registrant requests denial or dismissal of the Petition as appropriate, and such other and further relief as may be just and proper.

Dated: July 14, 2014

LIM, RUGER & KIM, LLP

By: George Busu

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Attorneys for Registrant, Damo Textile, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Petition for Cancellation has been served on counsel for Petitioner by mailing said copy on July 14, 2014, via First Class Mail, postage prepaid as follows:

Robert Ezra
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By: 
George Busu Esq.